



State of Wisconsin • DEPARTMENT OF REVENUE

DIVISION OF STATE AND LOCAL FINANCE • BUREAU OF UTILITY AND SPECIAL TAXES • 2135 Rimrock Road • P.O. Box 8971 •
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REAL ESTATE TRANSFER NEWS (RETN) JUNE 2002

The following questions and answers are given as general interpretations of the Wisconsin Administrative Code and Statutes. Should you have any questions, please write to:

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This newsletter may be found on the Internet at <http://www.dor.state.wi.us/ust/retn.html>

1Q. Could you give us preliminary information on 2001 Wis. Act 44, published April 3, 2002 which created two new exemptions from the real estate transfer fee and expanded the definition of merger?

The first new exemption, s. 77.25(6d), Stats. is for a conveyance "pursuant to partnerships registering as limited liability partnerships under s. 178.40." The new exemption changes the prior instructions from RETN, June 1996, 6Q that this transaction did not require a transfer return. Now that there is an exemption, a transfer return is required.

The second new exemption, s. 77.25(6m), Stats. is for a conveyance "pursuant to the conversion of a business entity to another form of business entity under s. 179.76, 180.1161, 181.1161, or 183.1207, if, after the conversion, the ownership interests in the new entity are identical with the ownership interests in the original entity immediately preceding the conversion."

This Act also expands the definition of s. 77.21(1e), Stats. "Mergers of corporations," which is exempt from the transfer fee under s. 77.25(6), Stats. The newly-expanded definition provides that "mergers of corporations" means the merger or combination of 2 or more corporations, non-stock corporations, limited liability companies, or limited partnerships, or any combination thereof, under a plan of merger or a plan of consolidation permitted by the laws that govern the entities."

The new exemptions and the change in the definition of "mergers of corporations" take effect on October 1, 2002.

More information will be given prior to the effective date of the exemptions as we get inquiries regarding the issues involved.

- 2Q. The situation is this: The current owner of the real property is a Profit Sharing Plan, which purchased the property for \$70,000. The profit sharing plan agreed to sell the property to the grantee for \$70,000 so the grantee had a house built on the property. The grantee has applied for financing for the property and the improvements in the amount of \$255,050. The bank won't give him the money until he gets the entire property (land and home) in his name. Therefore, the financing he receives will pay the Profit Sharing Plan \$70,000 for the land. The remaining loan proceeds will go to a builder to pay for the improvements. Should the transfer tax be figured on \$70,000 or \$255,050?**
- A.** Value subject to fee is the value of real property at the time of conveyance. Thus if the value is \$255,050 at the time of the conveyance, the fee is on \$255,100 regardless of who built it. This was decided with the R & R Development case that can be found on the WISBAR web site.
<http://www.wisbar.org/witaxop/1999/97t212.htm>
- 3Q. I am preparing a transfer tax return to accompany a deed in which the owner of a single-family residence is a single male. He has requested that we prepare a deed from him (as sole owner) to himself and his Co-Habitant (as joint tenants). The couple does not plan to marry. Following are my questions:**
- A.** When figuring the transfer fee, should I figure it on 1/2 the value of the real estate or should I figure it on the entire value?
- B.** Grantor/Grantee relationship: Is it none? Or is it "Other" with the explanation of "Co-Habitants"?
- C.** Type of Transfer: Should it be "Other" and explained as "Conveyance" with no explanation?
- D.** Ownership interest transferred: Should it be "Full" or should it be "Other" and explained by "Grantor is conveying a 1/2 interest to Grantee"?
- E.** Does Grantor retain any of the following rights: Should it be "None" (because he is giving up his rights as an individual owner and conveying them to himself and his co-habitant as joint tenants)? Or should it be "Other" and explained with "Grantor retains a 1/2 interest"?
- A.** A transfer fee is due on one half of the fair market value since one half of the value is being conveyed.
- B.** Either one applies and both may be checked. "Other" must have an explanation.
- C.** If the other person is being placed on a mortgage or other consideration (cash), then it would be considered a sale. "Other" can be checked and explained as "Co-habitants."
- D.** "Other" and explained by "Grantor is conveying a 1/2 interest to Grantee".
- E.** "Other" and explained with "Grantor retains a 1/2 interest".